IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2831 OF 2007

Siddhartha Gobal Limited ..Applicant

Vs.

1. State of Maharashtra and ors. ..Respondents

Mr. S.G. Bhandary i/by M/s. Bhandary and Bhandary for applicant.
Mr. P.A. Pol, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : August 30, 2007.

P.C.:

1. Heard Mr. Bhandary the learned counsel for the applicant-company which has filed C.C. No.21/SS/2005 and presently pending before the learned Special Metropolitan Magistrate and Judge of Small Causes Court, Mumbai. In the said complaint the accused after causing appearance, on receiving the summons, stopped to appear at the stage of evidence and, therefore, the applicant filed an application permitting him to publish the proclamation in a local newspaper. By an order dated 15/12/2006 the said

application was allowed granting liberty to the applicant to publish the proclamation in a Marathi Daily, namely, Loksatta and published from Mumbai.

2. It appears thereafter the applicant-company received the quotations for the rates of publications in the local newspaper from M/s. J.B. Enterprises vide letter dated 14/1/2007. As per the said communication Loaksatta charges Rs.750/- per sq.cm., whereas "Navashakti" charges Rs.30/- per sq.cm. After receiving the quotations, the applicant approached afresh to the learned Magistrate seeking liberty to publish the proclamation in the Marathi Daily "Navshakti" instead of "Loksatta". This application came to be rejected on 20/2/2007 by a cryptic order, "applicant to comply with previous order as it is".

3. The applicant, therefore, filed Revision Application under Stamp No. 2371 of 2007 which came to be dismissed by Sessions Court vide order dated 17/5/007. The Sessions Court held that there was noting wrong in the order passed by the learned

Magistrate. However, considering amount involved for publication in Loksatta, the applicant was directed to file a fresh application before the concerned learned Magistrate which was required to consider the application afresh on the basis of the costs involved and the nature of the offence. The applicant, therefore, moved a fresh application before the learned Magistrate and the same has been rejected on 18/7/2007 by directing the compliance of the earlier order to be done on or before 31/8/2007. Hence this application.

4. The applicant has received the rates for publication of proclamation and the total cost for the said publication in "Loksatta" comes to Rs.54000/-, whereas for the publication of the proclamation in "Navshakti" the amount comes to Rs.2,160/- which is less than 5% of the amount required to be incurred for publication in Loksatta. It is not in dispute that the accused no.1-factory and the accused no.2 its Director are located in Borivali i.e. within the limits of Municipal Corporation for Gr. Mumbai and the Daily Navshakti has its circulation in Mumbai

City. In my view the learned Magistrate was in error in rejecting the application filed by the applicant praying for liberty to publish the proclamation in the Marathi Daily Navshakti instead of Loksatta.

5. Hence, the application filed on 19/5/2007 for liberty to publish the proclamation in the Marathi Daily Navshakti is hereby allowed and the applicant is at liberty to publish the proclamation in Marathi Daily "Navshakti" instead of "Loksatta". The said proclamation be published before 15/9/2007 and a report to that effect shall be placed before the trial court along with a copy of the newspaper concerned by 20/9/2007. Consequently, the order dated 18/7/2007 stands set aside. The application is disposed off accordingly.

6. Writ to go to the trial court forthwith.

(B.H. Marlapalle,J.)